

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

ALJANON ALVIN,

Plaintiff,

v.

CPL VEAL OF SCMPD,

Defendants.

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CV417-206

FILED  
Scott L. Poff, Clerk  
United States District Court  
By tblanchard at 8:47 am, Jun 13, 2018

**REPORT AND RECOMMENDATION**

Defendant moves to dismiss the Savannah Chatham Police Department from plaintiff Aljanon Alvin's 42 U.S.C. § 1983 Complaint. Doc. 15. No opposition has been filed.

On November 1, 2016, Alvin visited his probation officer and was handcuffed and attacked from behind by Corporal Veal as he entered the room. Doc. 7 at 3. Veal allegedly hit the back of his head with his elbow some six times, rendering Alvin unconscious. *Id.* Alvin disclaims showing any signs of aggression prior to the attack which would have possibly justified the use of force. *Id.* Since being attacked, Alvin has suffered from a "headache" and "pain" in the "back of [his] head." *Id.* at 3, 5. He seeks \$600,000 in damages. *Id.* at 5.

## B. DISCUSSION

Defendant, out of an abundance of caution, seeks to have the Savannah Police Department (formerly the Savannah-Chatham Metropolitan Police Department, or “SCMPD”) dismissed from the Complaint. Doc. 15 at 2 (noting that plaintiff has listed both Corporal Veal and the SCMPD in the caption of his Amended Complaint, *see* doc. 7 at 1). At screening, the Court did not address whether the SCMPD was an appropriate defendant. Doc. 10. Defendant is correct that, to the extent Alvin seeks to name the SCMPD as a defendant, it must be dismissed from the case.

Alvin has made no direct allegations against the Savannah Police Department. *See* doc. 7. And even if his allegations implicated the police department, it is not an entity subject to suit under § 1983. *Lovelace v. DeKalb Cent. Prob.*, 144 F. App'x 793, 795 (11th Cir. 2005) (county police department not a legal entity subject to suit under § 1983); *Dean v. Barber*, 951 F.2d 1210, 1214 (11th Cir. 1992) (sheriff and police departments are not considered legal entities subject to suit), *cited by Bunyon v. Burke Cnty.*, 285 F. Supp. 2d 1310, 1328 (S.D. Ga. 2003). Indeed, nothing in the Amended Complaint even *hints* that it

has been involved in the deprivation of his constitutional rights. To the extent Alvin believes that the police department is responsible as Corporal Veal's employer, claims against local governments, government officials, or supervisors brought pursuant to § 1983 cannot be based upon theories of *respondeat superior* or vicarious liability. *See Polk County v. Dodson*, 454 U.S. 312, 325 (1981); *Monell v. Dep't of Soc. Servs. of New York*, 436 U.S. 658, 691 (1978); *Brown v. Crawford*, 906 F.2d 667, 671 (11th Cir. 1990). That is, a governmental entity cannot be held liable just because it employs a tortfeasor. Defendants' motion to dismiss the Savannah Police Department from the Amended Complaint (doc. 15) should be **GRANTED**.

This Report and Recommendation (R&R) is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court and serve a copy on all parties. The document should be captioned "Objections to Magistrate Judge's Report and Recommendations." Any request for additional time to file objections should be filed with the Clerk for consideration by the assigned district

judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; *see Symonett v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. U.S.*, 612 F. App'x 542, 545 (11th Cir. 2015).

**SO REPORTED AND RECOMMENDED**, this 12th day of June, 2018.

  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA